

REMARKS

Applicant has carefully reviewed and considered the Office Action mailed on May 16, 2008.

Claim 21 has been amended to recite an “update daemon” and “update processor” as hardware components of the update server and network appliance, respectively. These amendments find support, for example, on page 7, lines 1-16 and 24-30 of the specification.

Claim 29 has been amended to recite an “update daemon” as a hardware component. These amendments find support, for example, on page 7, lines 8-30.

Claim 30 has been amended to recite an “update processor” as a hardware component. These amendments find support, for example, on page 6, line 19 to page 7, line 7 of the specification.

§ 101 REJECTIONS

Claims 1-9 and 19-29 were rejected under 35 U.S.C. § 102 as being directed to non-statutory subject matter due to the specification's disclosure of a "carrier wave." Applicant recognizes that carrier waves or signals *per se* are not considered statutory subject matter, and without conceding the necessity of disavowing subject matter which may not be recited in the claims, Applicant hereby disavows any claims to carrier waves *per se*. However, Applicant does not disavow any claims to methods, systems, servers, appliances, or apparatuses which transmit, receive, or send data, messages, or notifications *via* carrier waves. Applicant respectfully submits that the requested deletion of portions of the specification is unnecessary because the claims, not the specification, define the scope of the invention. Accordingly, Applicant respectfully requests that the § 101 rejections of claims 1-9 and 19-29 be withdrawn.

Claims 21, 29, and 30 were rejected under 35 U.S.C. § 101 as being directed to non-statutory subject matter for not reciting hardware components. Without addressing the grounds of these rejections, which are not conceded, Applicant respectfully submits that the amendments to these claims to recite hardware components overcome these rejections, and respectfully requests that these rejections be withdrawn.

CONCLUSION

Applicant respectfully submits that the claims are in condition for allowance and notification to that effect is earnestly requested. The Examiner is invited to telephone Applicant's attorney (208-286-1013) to facilitate prosecution of this application.

If necessary, please charge any additional fees or credit overpayment to Deposit Account No. 50-3521 and reference Atty Docket No. 0051-007001.

Respectfully submitted,

Brake Hughes Bellermann LLP
Customer Number: 53666
208-286-1013

Date: August 4, 2008



Shane A. Kennedy
Reg No: 54,760